

House Engrossed Senate Bill

FILED

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SECRETARY OF STATE**

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CHAPTER 194

SENATE BILL 1340

AN ACT

AMENDING SECTIONS 42-5061, 42-5064, 42-5071 AND 42-5159, ARIZONA REVISED
STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses which involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity which is properly included in any other business classification which is taxable under article 1 of this chapter.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

1 14. Sales to nonresidents of this state for use outside this state if
2 the vendor ships or delivers the tangible personal property out of this
3 state.

4 15. Food, as provided in and subject to the conditions of article 3 of
5 this chapter and section 42-5074.

6 16. Items purchased with United States department of agriculture food
7 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
8 958) or food instruments issued under section 17 of the child nutrition act
9 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
10 section 1786).

11 17. Textbooks by any bookstore that are required by any state
12 university or community college.

13 18. Food and drink to a person who is engaged in business which is
14 classified under the restaurant classification and which provides such food
15 and drink without monetary charge to its employees for their own consumption
16 on the premises during the employees' hours of employment.

17 19. Articles of food, drink or condiment and accessory tangible
18 personal property to a school district if such articles and accessory
19 tangible personal property are to be prepared and served to persons for
20 consumption on the premises of a public school within the district during
21 school hours.

22 20. Lottery tickets or shares pursuant to title 5, chapter 5,
23 article 1.

24 21. The sale of precious metal bullion and monetized bullion to the
25 ultimate consumer, but the sale of coins or other forms of money for
26 manufacture into jewelry or works of art is subject to the tax. For the
27 purposes of this paragraph:

28 (a) "Monetized bullion" means coins and other forms of money which are
29 manufactured from gold, silver or other metals and which have been or are
30 used as a medium of exchange in this or another state, the United States or a
31 foreign nation.

32 (b) "Precious metal bullion" means precious metal, including gold,
33 silver, platinum, rhodium and palladium, which has been smelted or refined so
34 that its value depends on its contents and not on its form.

35 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
36 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
37 valid single trip use fuel tax permit issued under section 28-5739, sales of
38 aviation fuel which are subject to the tax imposed under section 28-8344 and
39 sales of jet fuel which are subject to the tax imposed under article 8 of
40 this chapter.

41 23. Tangible personal property sold to a person engaged in the business
42 of leasing or renting such property under the personal property rental
43 classification if such property is to be leased or rented by such person.

1 24. Tangible personal property sold in interstate or foreign commerce
2 if prohibited from being so taxed by the Constitution of the United States or
3 the constitution of this state.

4 25. Tangible personal property sold to:

5 (a) A qualifying hospital as defined in section 42-5001.

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization solely
8 to provide health and medical related educational and charitable services.

9 (c) A qualifying health care organization as defined in section
10 42-5001 if the organization is dedicated to providing educational,
11 therapeutic, rehabilitative and family medical education training for blind,
12 visually impaired and multihandicapped children from the time of birth to age
13 twenty-one.

14 (d) A qualifying community health center as defined in section
15 42-5001.

16 (e) A nonprofit charitable organization that has qualified under
17 section 501(c)(3) of the internal revenue code and that regularly serves
18 meals to the needy and indigent on a continuing basis at no cost.

19 (f) For taxable periods beginning from and after June 30, 2001, a
20 nonprofit charitable organization that has qualified under section 501(c)(3)
21 of the internal revenue code and that provides residential apartment housing
22 for low income persons over sixty-two years of age in a facility that
23 qualifies for a federal housing subsidy, if the tangible personal property is
24 used by the organization solely to provide residential apartment housing for
25 low income persons over sixty-two years of age in a facility that qualifies
26 for a federal housing subsidy.

27 26. Magazines or other periodicals or other publications by this state
28 to encourage tourist travel.

29 27. Tangible personal property sold to a person that is subject to tax
30 under this article by reason of being engaged in business classified under
31 the prime contracting classification under section 42-5075, or to a
32 subcontractor working under the control of a prime contractor that is subject
33 to tax under article 1 of this chapter, if the property so sold is any of the
34 following:

35 (a) Incorporated or fabricated by the person into any real property,
36 structure, project, development or improvement as part of the business.

37 (b) Used in environmental response or remediation activities under
38 section 42-5075, subsection B, paragraph 6.

39 (c) Incorporated or fabricated by the person into any lake facility
40 development in a commercial enhancement reuse district under conditions
41 prescribed for the deduction allowed by section 42-5075, subsection B,
42 paragraph 8.

1 28. The sale of a motor vehicle to:

2 (a) A nonresident of this state if the purchaser's state of residence
3 does not allow a corresponding use tax exemption to the tax imposed by
4 article 1 of this chapter and if the nonresident has secured a special ninety
5 day nonresident registration permit for the vehicle as prescribed by sections
6 28-2154 and 28-2154.01.

7 (b) An enrolled member of an Indian tribe who resides on the Indian
8 reservation established for that tribe.

9 29. Tangible personal property purchased in this state by a nonprofit
10 charitable organization that has qualified under section 501(c)(3) of the
11 United States internal revenue code and that engages in and uses such
12 property exclusively in programs for mentally or physically handicapped
13 persons if the programs are exclusively for training, job placement,
14 rehabilitation or testing.

15 30. Sales of tangible personal property by a nonprofit organization
16 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
17 of the internal revenue code if the organization is associated with a major
18 league baseball team or a national touring professional golfing association
19 and no part of the organization's net earnings inures to the benefit of any
20 private shareholder or individual.

21 31. Sales of commodities, as defined by title 7 United States Code
22 section 2, that are consigned for resale in a warehouse in this state in or
23 from which the commodity is deliverable on a contract for future delivery
24 subject to the rules of a commodity market regulated by the United States
25 commodity futures trading commission.

26 32. Sales of tangible personal property by a nonprofit organization
27 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
28 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
29 sponsors or operates a rodeo featuring primarily farm and ranch animals and
30 no part of the organization's net earnings inures to the benefit of any
31 private shareholder or individual.

32 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
33 propagative material to persons who use those items to commercially produce
34 agricultural, horticultural, viticultural or floricultural crops in this
35 state.

36 34. Machinery, equipment, technology or related supplies that are only
37 useful to assist a person who is physically disabled as defined in section
38 46-191, has a developmental disability as defined in section 36-551 or has a
39 head injury as defined in section 41-3201 to be more independent and
40 functional.

41 35. Sales of tangible personal property that is shipped or delivered
42 directly to a destination outside the United States for use in that foreign
43 country.

44 36. Sales of natural gas or liquefied petroleum gas used to propel a
45 motor vehicle.

1 37. Paper machine clothing, such as forming fabrics and dryer felts,
2 sold to a paper manufacturer and directly used or consumed in paper
3 manufacturing.

4 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
5 sold to a qualified environmental technology manufacturer, producer or
6 processor as defined in section 41-1514.02 and directly used or consumed in
7 the generation or provision of on-site power or energy solely for
8 environmental technology manufacturing, producing or processing or
9 environmental protection. This paragraph shall apply for fifteen full
10 consecutive calendar or fiscal years from the date the first paper
11 manufacturing machine is placed in service. In the case of an environmental
12 technology manufacturer, producer or processor who does not manufacture
13 paper, the time period shall begin with the date the first manufacturing,
14 processing or production equipment is placed in service.

15 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
16 processing, fabricating, mining, refining, metallurgical operations, research
17 and development and, beginning on January 1, 1999, printing, if using or
18 consuming the chemicals, alone or as part of an integrated system of
19 chemicals, involves direct contact with the materials from which the product
20 is produced for the purpose of causing or permitting a chemical or physical
21 change to occur in the materials as part of the production process. This
22 paragraph does not include chemicals that are used or consumed in activities
23 such as packaging, storage or transportation but does not affect any
24 deduction for such chemicals that is otherwise provided by this section. For
25 the purposes of this paragraph, "printing" means a commercial printing
26 operation and includes job printing, engraving, embossing, copying and
27 bookbinding.

28 40. Through December 31, 1994, personal property liquidation
29 transactions, conducted by a personal property liquidator. From and after
30 December 31, 1994, personal property liquidation transactions shall be
31 taxable under this section provided that nothing in this subsection shall be
32 construed to authorize the taxation of casual activities or transactions
33 under this chapter. For the purposes of this paragraph:

34 (a) "Personal property liquidation transaction" means a sale of
35 personal property made by a personal property liquidator acting solely on
36 behalf of the owner of the personal property sold at the dwelling of the
37 owner or upon the death of any owner, on behalf of the surviving spouse, if
38 any, any devisee or heir or the personal representative of the estate of the
39 deceased, if one has been appointed.

40 (b) "Personal property liquidator" means a person who is retained to
41 conduct a sale in a personal property liquidation transaction.

42 41. Sales of food, drink and condiment for consumption within the
43 premises of any prison, jail or other institution under the jurisdiction of
44 the state department of corrections, the department of public safety, the
45 department of juvenile corrections or a county sheriff.

1 42. A motor vehicle and any repair and replacement parts and tangible
2 personal property becoming a part of such motor vehicle sold to a motor
3 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
4 and who is engaged in the business of leasing or renting such property.

5 43. Livestock and poultry feed, salts, vitamins and other additives for
6 livestock or poultry consumption that are sold to persons who are engaged in
7 producing livestock, poultry, or livestock or poultry products or who are
8 engaged in feeding livestock or poultry commercially. For the purposes of
9 this paragraph, "poultry" includes ratites.

10 44. Sales of implants used as growth promotants and injectable
11 medicines, not already exempt under paragraph 8 of this subsection, for
12 livestock or poultry owned by or in possession of persons who are engaged in
13 producing livestock, poultry, or livestock or poultry products or who are
14 engaged in feeding livestock or poultry commercially. For the purposes of
15 this paragraph, "poultry" includes ratites.

16 45. Sales of motor vehicles at auction to nonresidents of this state
17 for use outside this state if the vehicles are shipped or delivered out of
18 this state, regardless of where title to the motor vehicles passes or its
19 free on board point.

20 46. Tangible personal property sold to a person engaged in business and
21 subject to tax under the transient lodging classification if the tangible
22 personal property is a personal hygiene item or articles used by human beings
23 for food, drink or condiment, except alcoholic beverages, which are furnished
24 without additional charge to and intended to be consumed by the transient
25 during the transient's occupancy.

26 47. Sales of alternative fuel, as defined in section 1-215, to a used
27 oil fuel burner who has received a permit to burn used oil or used oil fuel
28 under section 49-426 or 49-480.

29 48. Sales of materials that are purchased by or for publicly funded
30 libraries including school district libraries, charter school libraries,
31 community college libraries, state university libraries or federal, state,
32 county or municipal libraries for use by the public as follows:

33 (a) Printed or photographic materials, beginning August 7, 1985.

34 (b) Electronic or digital media materials, beginning July 17, 1994.

35 49. Tangible personal property sold to a commercial airline and
36 consisting of food, beverages and condiments and accessories used for serving
37 the food and beverages, if those items are to be provided without additional
38 charge to passengers for consumption in flight. For the purposes of this
39 paragraph, "commercial airline" means a person holding a federal certificate
40 of public convenience and necessity or foreign air carrier permit for air
41 transportation to transport persons, property or United States mail in
42 intrastate, interstate or foreign commerce.

1 50. Sales of alternative fuel vehicles if the vehicle was manufactured
2 as a diesel fuel vehicle and converted to operate on alternative fuel and
3 equipment that is installed in a conventional diesel fuel motor vehicle to
4 convert the vehicle to operate on an alternative fuel, as defined in section
5 1-215.

6 51. Sales of any spirituous, vinous or malt liquor by a person that is
7 licensed in this state as a wholesaler by the department of liquor licenses
8 and control pursuant to title 4, chapter 2, article 1.

9 52. Sales of tangible personal property to be incorporated or installed
10 as part of environmental response or remediation activities under section
11 42-5075, subsection B, paragraph 6.

12 53. Sales of tangible personal property by a nonprofit organization
13 that is exempt from taxation under section 501(c)(6) of the internal revenue
14 code if the organization produces, organizes or promotes cultural or civic
15 related festivals or events and no part of the organization's net earnings
16 inures to the benefit of any private shareholder or individual.

17 54. Through August 31, 2014, sales of Arizona centennial medallions by
18 the historical advisory commission.

19 55. APPLICATION SERVICES THAT ARE DESIGNED TO ASSESS OR TEST STUDENT
20 LEARNING OR TO PROMOTE CURRICULUM DESIGN OR ENHANCEMENT PURCHASED BY OR FOR
21 ANY SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE OR STATE UNIVERSITY.
22 FOR THE PURPOSES OF THIS PARAGRAPH:

23 (a) "APPLICATION SERVICES" MEANS SOFTWARE APPLICATIONS PROVIDED
24 REMOTELY USING HYPERTEXT TRANSFER PROTOCOL OR ANOTHER NETWORK PROTOCOL.

25 (b) "CURRICULUM DESIGN OR ENHANCEMENT" MEANS PLANNING, IMPLEMENTING OR
26 REPORTING ON COURSES OF STUDY, LESSONS, ASSIGNMENTS OR OTHER LEARNING
27 ACTIVITIES.

28 B. In addition to the deductions from the tax base prescribed by
29 subsection A of this section, the gross proceeds of sales or gross income
30 derived from sales of the following categories of tangible personal property
31 shall be deducted from the tax base:

32 1. Machinery, or equipment, used directly in manufacturing,
33 processing, fabricating, job printing, refining or metallurgical operations.
34 The terms "manufacturing", "processing", "fabricating", "job printing",
35 "refining" and "metallurgical" as used in this paragraph refer to and include
36 those operations commonly understood within their ordinary meaning.
37 "Metallurgical operations" includes leaching, milling, precipitating,
38 smelting and refining.

39 2. Mining machinery, or equipment, used directly in the process of
40 extracting ores or minerals from the earth for commercial purposes, including
41 equipment required to prepare the materials for extraction and handling,
42 loading or transporting such extracted material to the surface. "Mining"
43 includes underground, surface and open pit operations for extracting ores and
44 minerals.

1 3. Tangible personal property sold to persons engaged in business
2 classified under the telecommunications classification and consisting of
3 central office switching equipment, switchboards, private branch exchange
4 equipment, microwave radio equipment and carrier equipment including optical
5 fiber, coaxial cable and other transmission media which are components of
6 carrier systems.

7 4. Machinery, equipment or transmission lines used directly in
8 producing or transmitting electrical power, but not including distribution.
9 Transformers and control equipment used at transmission substation sites
10 constitute equipment used in producing or transmitting electrical power.

11 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
12 to be used as breeding or production stock, including sales of breedings or
13 ownership shares in such animals used for breeding or production.

14 6. Pipes or valves four inches in diameter or larger used to transport
15 oil, natural gas, artificial gas, water or coal slurry, including compressor
16 units, regulators, machinery and equipment, fittings, seals and any other
17 part that is used in operating the pipes or valves.

18 7. Aircraft, navigational and communication instruments and other
19 accessories and related equipment sold to:

20 (a) A person holding a federal certificate of public convenience and
21 necessity, a supplemental air carrier certificate under federal aviation
22 regulations (14 Code of Federal Regulations part 121) or a foreign air
23 carrier permit for air transportation for use as or in conjunction with or
24 becoming a part of aircraft to be used to transport persons, property or
25 United States mail in intrastate, interstate or foreign commerce.

26 (b) Any foreign government for use by such government outside of this
27 state.

28 (c) Persons who are not residents of this state and who will not use
29 such property in this state other than in removing such property from this
30 state. This subdivision also applies to corporations that are not
31 incorporated in this state, regardless of maintaining a place of business in
32 this state, if the principal corporate office is located outside this state
33 and the property will not be used in this state other than in removing the
34 property from this state.

35 8. Machinery, tools, equipment and related supplies used or consumed
36 directly in repairing, remodeling or maintaining aircraft, aircraft engines
37 or aircraft component parts by or on behalf of a certificated or licensed
38 carrier of persons or property.

39 9. Railroad rolling stock, rails, ties and signal control equipment
40 used directly to transport persons or property.

41 10. Machinery or equipment used directly to drill for oil or gas or
42 used directly in the process of extracting oil or gas from the earth for
43 commercial purposes.

1 11. Buses or other urban mass transit vehicles which are used directly
2 to transport persons or property for hire or pursuant to a governmentally
3 adopted and controlled urban mass transportation program and which are sold
4 to bus companies holding a federal certificate of convenience and necessity
5 or operated by any city, town or other governmental entity or by any person
6 contracting with such governmental entity as part of a governmentally adopted
7 and controlled program to provide urban mass transportation.

8 12. Groundwater measuring devices required under section 45-604.

9 13. New machinery and equipment consisting of tractors, tractor-drawn
10 implements, self-powered implements, machinery and equipment necessary for
11 extracting milk, and machinery and equipment necessary for cooling milk and
12 livestock, and drip irrigation lines not already exempt under paragraph 6 of
13 this subsection and that are used for commercial production of agricultural,
14 horticultural, viticultural and floricultural crops and products in this
15 state. For the purposes of this paragraph:

16 (a) "New machinery and equipment" means machinery and equipment which
17 have never been sold at retail except pursuant to leases or rentals which do
18 not total two years or more.

19 (b) "Self-powered implements" includes machinery and equipment that
20 are electric-powered.

21 14. Machinery or equipment used in research and development. For the
22 purposes of this paragraph, "research and development" means basic and
23 applied research in the sciences and engineering, and designing, developing
24 or testing prototypes, processes or new products, including research and
25 development of computer software that is embedded in or an integral part of
26 the prototype or new product or that is required for machinery or equipment
27 otherwise exempt under this section to function effectively. Research and
28 development do not include manufacturing quality control, routine consumer
29 product testing, market research, sales promotion, sales service, research in
30 social sciences or psychology, computer software research that is not
31 included in the definition of research and development, or other
32 nontechnological activities or technical services.

33 15. Machinery and equipment that are purchased by or on behalf of the
34 owners of a soundstage complex and primarily used for motion picture,
35 multimedia or interactive video production in the complex. This paragraph
36 applies only if the initial construction of the soundstage complex begins
37 after June 30, 1996 and before January 1, 2002 and the machinery and
38 equipment are purchased before the expiration of five years after the start
39 of initial construction. For the purposes of this paragraph:

40 (a) "Motion picture, multimedia or interactive video production"
41 includes products for theatrical and television release, educational
42 presentations, electronic retailing, documentaries, music videos, industrial
43 films, CD-ROM, video game production, commercial advertising and television
44 episode production and other genres that are introduced through developing
45 technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25 and 100.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts 25 and 100.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

1 18. Machinery and equipment used directly in the feeding of poultry,
2 the environmental control of housing for poultry, the movement of eggs within
3 a production and packaging facility or the sorting or cooling of eggs. This
4 exemption does not apply to vehicles used for transporting eggs.

5 19. Machinery or equipment, including related structural components,
6 that is employed in connection with manufacturing, processing, fabricating,
7 job printing, refining, mining, natural gas pipelines, metallurgical
8 operations, telecommunications, producing or transmitting electricity or
9 research and development and that is used directly to meet or exceed rules or
10 regulations adopted by the federal energy regulatory commission, the United
11 States environmental protection agency, the United States nuclear regulatory
12 commission, the Arizona department of environmental quality or a political
13 subdivision of this state to prevent, monitor, control or reduce land, water
14 or air pollution.

15 20. Machinery and equipment that are sold to a person engaged in the
16 commercial production of livestock, livestock products or agricultural,
17 horticultural, viticultural or floricultural crops or products in this state
18 and that are used directly and primarily to prevent, monitor, control or
19 reduce air, water or land pollution.

20 21. Machinery or equipment that enables a television station to
21 originate and broadcast or to receive and broadcast digital television
22 signals and that was purchased to facilitate compliance with the
23 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
24 Code section 336) and the federal communications commission order issued
25 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
26 not exempt any of the following:

27 (a) Repair or replacement parts purchased for the machinery or
28 equipment described in this paragraph.

29 (b) Machinery or equipment purchased to replace machinery or equipment
30 for which an exemption was previously claimed and taken under this paragraph.

31 (c) Any machinery or equipment purchased after the television station
32 has ceased analog broadcasting, or purchased after November 1, 2009,
33 whichever occurs first.

34 22. Qualifying equipment that is purchased from and after June 30, 2004
35 through June 30, 2014 by a qualified business under section 41-1516 for
36 harvesting or the initial processing of qualifying forest products removed
37 from qualifying projects as defined in section 41-1516. To qualify for this
38 deduction, the qualified business at the time of purchase must present its
39 certification approved by the department.

40 23. Machinery, equipment and other tangible personal property used
41 directly in motion picture production by a motion picture production company.
42 To qualify for this deduction, at the time of purchase, the motion picture
43 production company must present to the retailer its certificate that is
44 issued pursuant to section 42-5009, subsection H and that establishes its
45 qualification for the deduction.

1 C. The deductions provided by subsection B of this section do not
2 include sales of:

3 1. Expendable materials. For the purposes of this paragraph,
4 expendable materials do not include any of the categories of tangible
5 personal property specified in subsection B of this section regardless of the
6 cost or useful life of that property.

7 2. Janitorial equipment and hand tools.

8 3. Office equipment, furniture and supplies.

9 4. Tangible personal property used in selling or distributing
10 activities, other than the telecommunications transmissions described in
11 subsection B, paragraph 16 of this section.

12 5. Motor vehicles required to be licensed by this state, except buses
13 or other urban mass transit vehicles specifically exempted pursuant to
14 subsection B, paragraph 11 of this section, without regard to the use of such
15 motor vehicles.

16 6. Shops, buildings, docks, depots and all other materials of whatever
17 kind or character not specifically included as exempt.

18 7. Motors and pumps used in drip irrigation systems.

19 D. In addition to the deductions from the tax base prescribed by
20 subsection A of this section, there shall be deducted from the tax base the
21 gross proceeds of sales or gross income derived from sales of machinery,
22 equipment, materials and other tangible personal property used directly and
23 predominantly to construct a qualified environmental technology
24 manufacturing, producing or processing facility as described in section
25 41-1514.02. This subsection applies for ten full consecutive calendar or
26 fiscal years after the start of initial construction.

27 E. In computing the tax base, gross proceeds of sales or gross income
28 from retail sales of heavy trucks and trailers does not include any amount
29 attributable to federal excise taxes imposed by 26 United States Code section
30 4051.

31 F. In computing the tax base, gross proceeds of sales or gross income
32 from the sale of use fuel, as defined in section 28-5601, does not include
33 any amount attributable to federal excise taxes imposed by 26 United States
34 Code section 4091.

35 G. If a person is engaged in an occupation or business to which
36 subsection A of this section applies, the person's books shall be kept so as
37 to show separately the gross proceeds of sales of tangible personal property
38 and the gross income from sales of services, and if not so kept the tax shall
39 be imposed on the total of the person's gross proceeds of sales of tangible
40 personal property and gross income from services.

41 H. If a person is engaged in the business of selling tangible personal
42 property at both wholesale and retail, the tax under this section applies
43 only to the gross proceeds of the sales made other than at wholesale if the
44 person's books are kept so as to show separately the gross proceeds of sales

1 of each class, and if the books are not so kept, the tax under this section
2 applies to the gross proceeds of every sale so made.

3 I. A person who engages in manufacturing, baling, crating, boxing,
4 barreling, canning, bottling, sacking, preserving, processing or otherwise
5 preparing for sale or commercial use any livestock, agricultural or
6 horticultural product or any other product, article, substance or commodity
7 and who sells the product of such business at retail in this state is deemed,
8 as to such sales, to be engaged in business classified under the retail
9 classification. This subsection does not apply to businesses classified
10 under the:

- 11 1. Transporting classification.
- 12 2. Utilities classification.
- 13 3. Telecommunications classification.
- 14 4. Pipeline classification.
- 15 5. Private car line classification.
- 16 6. Publication classification.
- 17 7. Job printing classification.
- 18 8. Prime contracting classification.
- 19 9. Owner builder sales classification.
- 20 10. Restaurant classification.

21 J. The gross proceeds of sales or gross income derived from the
22 following shall be deducted from the tax base for the retail classification:

23 1. Sales made directly to the United States government or its
24 departments or agencies by a manufacturer, modifier, assembler or repairer.

25 2. Sales made directly to a manufacturer, modifier, assembler or
26 repairer if such sales are of any ingredient or component part of products
27 sold directly to the United States government or its departments or agencies
28 by the manufacturer, modifier, assembler or repairer.

29 3. Overhead materials or other tangible personal property that is used
30 in performing a contract between the United States government and a
31 manufacturer, modifier, assembler or repairer, including property used in
32 performing a subcontract with a government contractor who is a manufacturer,
33 modifier, assembler or repairer, to which title passes to the government
34 under the terms of the contract or subcontract.

35 4. Sales of overhead materials or other tangible personal property to
36 a manufacturer, modifier, assembler or repairer if the gross proceeds of
37 sales or gross income derived from the property by the manufacturer,
38 modifier, assembler or repairer will be exempt under paragraph 3 of this
39 subsection.

40 K. There shall be deducted from the tax base fifty per cent of the
41 gross proceeds or gross income from any sale of tangible personal property
42 made directly to the United States government or its departments or agencies,
43 which is not deducted under subsection J of this section.

1 L. The department shall require every person claiming a deduction
2 provided by subsection J or K of this section to file on forms prescribed by
3 the department at such times as the department directs a sworn statement
4 disclosing the name of the purchaser and the exact amount of sales on which
5 the exclusion or deduction is claimed.

6 M. In computing the tax base, gross proceeds of sales or gross income
7 does not include:

8 1. A manufacturer's cash rebate on the sales price of a motor vehicle
9 if the buyer assigns the buyer's right in the rebate to the retailer.

10 2. The waste tire disposal fee imposed pursuant to section 44-1302.

11 N. There shall be deducted from the tax base the amount received from
12 sales of solar energy devices. The retailer shall register with the
13 department as a solar energy retailer. By registering, the retailer
14 acknowledges that it will make its books and records relating to sales of
15 solar energy devices available to the department for examination.

16 O. In computing the tax base in the case of the sale or transfer of
17 wireless telecommunications equipment as an inducement to a customer to enter
18 into or continue a contract for telecommunications services that are taxable
19 under section 42-5064, gross proceeds of sales or gross income does not
20 include any sales commissions or other compensation received by the retailer
21 as a result of the customer entering into or continuing a contract for the
22 telecommunications services.

23 P. For the purposes of this section, a sale of wireless
24 telecommunications equipment to a person who holds the equipment for sale or
25 transfer to a customer as an inducement to enter into or continue a contract
26 for telecommunications services that are taxable under section 42-5064 is
27 considered to be a sale for resale in the regular course of business.

28 Q. Retail sales of prepaid calling cards or prepaid authorization
29 numbers for telecommunications services, including sales of reauthorization
30 of a prepaid card or authorization number, are subject to tax under this
31 section.

32 R. For the purposes of this section, the diversion of gas from a
33 pipeline by a person engaged in the business of:

34 1. Operating a natural or artificial gas pipeline, for the sole
35 purpose of fueling compressor equipment to pressurize the pipeline, is not a
36 sale of the gas to the operator of the pipeline.

37 2. Converting natural gas into liquefied natural gas, for the sole
38 purpose of fueling compressor equipment used in the conversion process, is
39 not a sale of gas to the operator of the compressor equipment.

40 S. If a seller is entitled to a deduction pursuant to subsection B,
41 paragraph 16, subdivision (b) of this section, the department may require the
42 purchaser to establish that the requirements of subsection B, paragraph 16,
43 subdivision (b) of this section have been satisfied. If the purchaser cannot
44 establish that the requirements of subsection B, paragraph 16, subdivision
45 (b) of this section have been satisfied, the purchaser is liable in an amount

1 equal to any tax, penalty and interest which the seller would have been
2 required to pay under article 1 of this chapter if the seller had not made a
3 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
4 section. Payment of the amount under this subsection exempts the purchaser
5 from liability for any tax imposed under article 4 of this chapter and
6 related to the tangible personal property purchased. The amount shall be
7 treated as transaction privilege tax to the purchaser and as tax revenues
8 collected from the seller to designate the distribution base pursuant to
9 section 42-5029.

10 T. For the purposes of section 42-5032.01, the department shall
11 separately account for revenues collected under the retail classification
12 from businesses selling tangible personal property at retail:

13 1. On the premises of a multipurpose facility that is owned, leased or
14 operated by the tourism and sports authority pursuant to title 5, chapter 8.

15 2. At professional football contests that are held in a stadium
16 located on the campus of an institution under the jurisdiction of the Arizona
17 board of regents.

18 U. In computing the tax base for the sale of a motor vehicle to a
19 nonresident of this state, if the purchaser's state of residence allows a
20 corresponding use tax exemption to the tax imposed by article 1 of this
21 chapter and the rate of the tax in the purchaser's state of residence is
22 lower than the rate prescribed in article 1 of this chapter or if the
23 purchaser's state of residence does not impose an excise tax, and the
24 nonresident has secured a special ninety day nonresident registration permit
25 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
26 be deducted from the tax base a portion of the gross proceeds or gross income
27 from the sale so that the amount of transaction privilege tax that is paid in
28 this state is equal to the excise tax that is imposed by the purchaser's
29 state of residence on the nonexempt sale or use of the motor vehicle.

30 V. For the purposes of this section:

31 1. "Aircraft" includes:

32 (a) An airplane flight simulator that is approved by the federal
33 aviation administration for use as a phase II or higher flight simulator
34 under appendix H, 14 Code of Federal Regulations part 121.

35 (b) Tangible personal property that is permanently affixed or attached
36 as a component part of an aircraft that is owned or operated by a
37 certificated or licensed carrier of persons or property.

38 2. "Other accessories and related equipment" includes aircraft
39 accessories and equipment such as ground service equipment that physically
40 contact aircraft at some point during the overall carrier operation.

41 3. "Selling at retail" means a sale for any purpose other than for
42 resale in the regular course of business in the form of tangible personal
43 property, but transfer of possession, lease and rental as used in the
44 definition of sale mean only such transactions as are found on investigation
45 to be in lieu of sales as defined without the words lease or rental.

1 W. For the purposes of subsection J of this section:

2 1. "Assembler" means a person who unites or combines products, wares
3 or articles of manufacture so as to produce a change in form or substance
4 without changing or altering the component parts.

5 2. "Manufacturer" means a person who is principally engaged in the
6 fabrication, production or manufacture of products, wares or articles for use
7 from raw or prepared materials, imparting to those materials new forms,
8 qualities, properties and combinations.

9 3. "Modifier" means a person who reworks, changes or adds to products,
10 wares or articles of manufacture.

11 4. "Overhead materials" means tangible personal property, the gross
12 proceeds of sales or gross income derived from which would otherwise be
13 included in the retail classification, and which are used or consumed in the
14 performance of a contract, the cost of which is charged to an overhead
15 expense account and allocated to various contracts based upon generally
16 accepted accounting principles and consistent with government contract
17 accounting standards.

18 5. "Repairer" means a person who restores or renews products, wares or
19 articles of manufacture.

20 6. "Subcontract" means an agreement between a contractor and any
21 person who is not an employee of the contractor for furnishing of supplies or
22 services that, in whole or in part, are necessary to the performance of one
23 or more government contracts, or under which any portion of the contractor's
24 obligation under one or more government contracts is performed, undertaken or
25 assumed and that includes provisions causing title to overhead materials or
26 other tangible personal property used in the performance of the subcontract
27 to pass to the government or that includes provisions incorporating such
28 title passing clauses in a government contract into the subcontract.

29 Sec. 2. Section 42-5064, Arizona Revised Statutes, is amended to read:
30 42-5064. Telecommunications classification; definitions

31 A. The telecommunications classification is comprised of the business
32 of providing intrastate telecommunications services. The telecommunications
33 classification does not include:

34 1. Sales of intrastate telecommunications services by a cable
35 television system as defined in section 9-505 or by a microwave television
36 transmission system that transmits television programming to multiple
37 subscribers and that is operated pursuant to 47 Code of Federal Regulations
38 parts 21 and 74.

39 2. Sales of internet access OR APPLICATION services to the person's
40 subscribers and customers. FOR THE PURPOSES OF THIS PARAGRAPH:

41 (a) "APPLICATION SERVICES" MEANS SOFTWARE APPLICATIONS PROVIDED
42 REMOTELY USING HYPERTEXT TRANSFER PROTOCOL OR ANOTHER NETWORK PROTOCOL AND
43 PURCHASED BY OR FOR ANY SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE OR
44 STATE UNIVERSITY TO ASSESS OR TEST STUDENT LEARNING OR TO PROMOTE CURRICULUM
45 DESIGN OR ENHANCEMENT.

1 (b) "CURRICULUM DESIGN OR ENHANCEMENT" MEANS PLANNING, IMPLEMENTING OR
2 REPORTING ON COURSES OF STUDY, LESSONS, ASSIGNMENTS OR OTHER LEARNING
3 ACTIVITIES.

4 B. The tax base for the telecommunications classification is the gross
5 proceeds of sales or gross income derived from the business, including the
6 gross income derived from tolls, subscriptions and services on behalf of
7 subscribers or from the publication of a directory of the names of
8 subscribers. However, the gross proceeds of sales or gross income derived
9 from the following shall be deducted from the tax base:

10 1. Sales of intrastate telecommunications services to:

11 (a) Other persons engaged in businesses classified under the
12 telecommunications classification for use in such business.

13 (b) A direct broadcast satellite television or data transmission
14 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
15 100 for use in its direct broadcast satellite television or data transmission
16 operation by a facility described in section 42-5061, subsection B, paragraph
17 16, subdivision (b).

18 2. End user common line charges established by federal communications
19 commission regulations (47 Code of Federal Regulations section 69.104(a)).

20 3. Carrier access charges established by federal communications
21 commission regulations (47 Code of Federal Regulations sections 69.105(a)
22 through 69.118).

23 4. Sales of direct broadcast satellite television services pursuant to
24 47 Code of Federal Regulations parts 25 and 100 by a direct broadcast
25 satellite television service that operates pursuant to 47 Code of Federal
26 Regulations parts 25 and 100.

27 5. Telecommunications services purchased with a prepaid calling card,
28 or a prepaid authorization number for telecommunications services, that is
29 taxable under section 42-5061.

30 C. A person that is engaged in a transient lodging business subject to
31 taxation under section 42-5070 and that provides telephone, fax or internet
32 access services to its customers at an additional charge, which is separately
33 stated on the customer invoice, is considered to be engaged in business
34 subject to taxation under this section for the purposes of taxing the gross
35 proceeds of sales or gross income derived from providing those services.

36 D. The gross proceeds of sales or gross income derived from a bundled
37 transaction of services that are taxable pursuant to section 42-5023 are
38 subject to the following:

39 1. A telecommunications service provider who can reasonably identify
40 the portion of the sales price of the bundled transaction derived from
41 charges for nontaxable services is subject to tax only on the gross proceeds
42 of sales or gross income derived from the taxable services. For the purposes
43 of this section, the telecommunications service provider may elect to
44 reasonably identify the portion of the sales price of the bundled transaction
45 derived from charges for nontaxable services by using allocation percentages

1 derived from the telecommunications service provider's entire service area,
2 including territories outside of this state. On request, the department may
3 require the telecommunications service provider to provide this allocation
4 information. The reasonableness of the allocation is subject to audit by the
5 department.

6 2. Notwithstanding sections 42-1118, 42-1120 and 42-1121, the
7 telecommunications service provider shall waive the right to file a claim for
8 a refund of taxes paid on the bundled transaction if the taxes paid are based
9 on the allocation percentage the telecommunications service provider had
10 determined to be reasonable at the beginning of the tax period at issue.

11 3. The burden of proof is on the telecommunications service provider
12 to establish that the gross proceeds of sales or gross income is derived from
13 charges for nontaxable services.

14 E. For the purposes of this section:

15 1. "Bundled transaction" means a sale of multiple services in which
16 both of the following apply:

17 (a) The sale consists of both taxable and nontaxable services.

18 (b) The telecommunications service provider charges a customer one
19 sales price for all services that are sold instead of separately charging for
20 each individual service.

21 2. "Internet" means the computer and telecommunications facilities
22 that comprise the interconnected worldwide network of networks that employ
23 the transmission control protocol or internet protocol, or any predecessor or
24 successor protocol, to communicate information of all kinds by wire or radio.

25 3. "Internet access" means a service that enables users to access
26 content, information, electronic mail or other services over the internet.
27 Internet access does not include telecommunications services provided by a
28 common carrier.

29 4. "Intrastate telecommunications services" means transmitting signs,
30 signals, writings, images, sounds, messages, data or other information of any
31 nature by wire, radio waves, light waves or other electromagnetic means if
32 the information transmitted originates and terminates in this state.

33 Sec. 3. Section 42-5071, Arizona Revised Statutes, is amended to read:

34 42-5071. Personal property rental classification

35 A. The personal property rental classification is comprised of the
36 business of leasing or renting tangible personal property for a
37 consideration. The tax does not apply to:

38 1. Leasing or renting films, tapes or slides used by theaters or
39 movies, which are engaged in business under the amusement classification, or
40 used by television stations or radio stations.

41 2. Activities engaged in by the Arizona exposition and state fair
42 board or county fair commissions in connection with events sponsored by such
43 entities.

44 3. Leasing or renting tangible personal property by a parent
45 corporation to a subsidiary corporation or by a subsidiary corporation to

1 another subsidiary of the same parent corporation if taxes were paid under
2 this chapter on the gross proceeds or gross income accruing from the initial
3 sale of the tangible personal property. For the purposes of this paragraph,
4 "subsidiary" means a corporation of which at least eighty per cent of the
5 voting shares are owned by the parent corporation.

6 4. Operating coin operated washing, drying and dry cleaning machines
7 or coin operated car washing machines at establishments for the use of such
8 machines.

9 5. Leasing or renting tangible personal property for incorporation
10 into or comprising any part of a qualified environmental technology facility
11 as described in section 41-1514.02. This paragraph shall apply for ten full
12 consecutive calendar or fiscal years following the initial lease or rental by
13 each qualified environmental technology manufacturer, producer or processor.

14 6. Leasing or renting aircraft, flight simulators or similar training
15 equipment to students or staff by nonprofit, accredited educational
16 institutions that offer associate or baccalaureate degrees in aviation or
17 aerospace related fields.

18 7. Leasing or renting photographs, transparencies or other creative
19 works used by this state on internet web sites, in magazines or in other
20 publications that encourage tourism.

21 B. The tax base for the personal property rental classification is the
22 gross proceeds of sales or gross income derived from the business, but the
23 gross proceeds of sales or gross income derived from the following shall be
24 deducted from the tax base:

25 1. Reimbursements by the lessee to the lessor of a motor vehicle for
26 payments by the lessor of the applicable fees and taxes imposed by sections
27 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
28 article 2 and article IX, section 11, Constitution of Arizona, to the extent
29 such amounts are separately identified as such fees and taxes and are billed
30 to the lessee.

31 2. Leases or rentals of tangible personal property which, if it had
32 been purchased instead of leased or rented by the lessee, would have been
33 exempt under:

34 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, ~~or~~
35 50 OR 55.

36 (b) Section 42-5061, subsection B, except that a lease or rental of
37 new machinery or equipment is not exempt pursuant to:

38 (i) Section 42-5061, subsection B, paragraph 13 if the lease is for
39 less than two years.

40 (ii) Section 42-5061, subsection B, paragraph 22 if the lease is for
41 less than five years.

42 (c) Section 42-5061, subsection J, paragraph 1.

43 (d) Section 42-5061, subsection N.

1 3. Motor vehicle fuel and use fuel that are subject to a tax imposed
2 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
3 valid single trip use fuel tax permit issued under section 28-5739 and sales
4 of aviation fuel that are subject to the tax imposed under section 28-8344.

5 4. Leasing or renting a motor vehicle subject to and upon which the
6 fee has been paid under title 28, chapter 16, article 4.

7 5. Amounts received by a motor vehicle dealer for the first month of a
8 lease payment if the lease and the lease payment for the first month of the
9 lease are transferred to a third party leasing company.

10 C. Sales of tangible personal property to be leased or rented to a
11 person engaged in a business classified under the personal property rental
12 classification are deemed to be resale sales.

13 D. In computing the tax base, the gross proceeds of sales or gross
14 income from the lease or rental of a motor vehicle does not include any
15 amount attributable to the car rental surcharge under section 28-5810 or
16 48-4234.

17 E. Until December 31, 1988, leasing or renting animals for
18 recreational purposes is exempt from the tax imposed by this section.
19 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
20 renting animals for recreational purposes is subject to taxation under this
21 section. Tax liabilities, penalties and interest paid for taxable periods
22 before January 1, 1989 shall not be refunded unless the taxpayer requesting
23 the refund provides proof satisfactory to the department that the monies paid
24 as taxes will be returned to the customer.

25 Sec. 4. Section 42-5159, Arizona Revised Statutes, is amended to read:
26 42-5159. Exemptions

27 A. The tax levied by this article does not apply to the storage, use
28 or consumption in this state of the following described tangible personal
29 property:

30 1. Tangible personal property sold in this state, the gross receipts
31 from the sale of which are included in the measure of the tax imposed by
32 articles 1 and 2 of this chapter.

33 2. Tangible personal property the sale or use of which has already
34 been subjected to an excise tax at a rate equal to or exceeding the tax
35 imposed by this article under the laws of another state of the United States.
36 If the excise tax imposed by the other state is at a rate less than the tax
37 imposed by this article, the tax imposed by this article is reduced by the
38 amount of the tax already imposed by the other state.

39 3. Tangible personal property, the storage, use or consumption of
40 which the constitution or laws of the United States prohibit this state from
41 taxing or to the extent that the rate or imposition of tax is
42 unconstitutional under the laws of the United States.

43 4. Tangible personal property which directly enters into and becomes
44 an ingredient or component part of any manufactured, fabricated or processed
45 article, substance or commodity for sale in the regular course of business.

1 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
2 which in this state is subject to the tax imposed under title 28, chapter 16,
3 article 1, use fuel which is sold to or used by a person holding a valid
4 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
5 the sales, distribution or use of which in this state is subject to the tax
6 imposed under section 28-8344, and jet fuel, the sales, distribution or use
7 of which in this state is subject to the tax imposed under article 8 of this
8 chapter.

9 6. Tangible personal property brought into this state by an individual
10 who was a nonresident at the time the property was purchased for storage, use
11 or consumption by the individual if the first actual use or consumption of
12 the property was outside this state, unless the property is used in
13 conducting a business in this state.

14 7. Purchases of implants used as growth promotants and injectable
15 medicines, not already exempt under paragraph 16 of this subsection, for
16 livestock and poultry owned by, or in possession of, persons who are engaged
17 in producing livestock, poultry, or livestock or poultry products, or who are
18 engaged in feeding livestock or poultry commercially. For the purposes of
19 this paragraph, "poultry" includes ratites.

20 8. Livestock, poultry, supplies, feed, salts, vitamins and other
21 additives for use or consumption in the businesses of farming, ranching and
22 feeding livestock or poultry, not including fertilizers, herbicides and
23 insecticides. For the purposes of this paragraph, "poultry" includes
24 ratites.

25 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
26 material for use in commercially producing agricultural, horticultural,
27 viticultural or floricultural crops in this state.

28 10. Tangible personal property not exceeding two hundred dollars in any
29 one month purchased by an individual at retail outside the continental limits
30 of the United States for the individual's own personal use and enjoyment.

31 11. Advertising supplements which are intended for sale with newspapers
32 published in this state and which have already been subjected to an excise
33 tax under the laws of another state in the United States which equals or
34 exceeds the tax imposed by this article.

35 12. Materials that are purchased by or for publicly funded libraries
36 including school district libraries, charter school libraries, community
37 college libraries, state university libraries or federal, state, county or
38 municipal libraries for use by the public as follows:

39 (a) Printed or photographic materials, beginning August 7, 1985.

40 (b) Electronic or digital media materials, beginning July 17, 1994.

41 13. Tangible personal property purchased by:

42 (a) A hospital organized and operated exclusively for charitable
43 purposes, no part of the net earnings of which inures to the benefit of any
44 private shareholder or individual.

1 (b) A hospital operated by this state or a political subdivision of
2 this state.

3 (c) A licensed nursing care institution or a licensed residential care
4 institution or a residential care facility operated in conjunction with a
5 licensed nursing care institution or a licensed kidney dialysis center, which
6 provides medical services, nursing services or health related services and is
7 not used or held for profit.

8 (d) A qualifying health care organization, as defined in section
9 42-5001, if the tangible personal property is used by the organization solely
10 to provide health and medical related educational and charitable services.

11 (e) A qualifying health care organization as defined in section
12 42-5001 if the organization is dedicated to providing educational,
13 therapeutic, rehabilitative and family medical education training for blind,
14 visually impaired and multihandicapped children from the time of birth to age
15 twenty-one.

16 (f) A nonprofit charitable organization that has qualified under
17 section 501(c)(3) of the United States internal revenue code and that engages
18 in and uses such property exclusively in programs for mentally or physically
19 handicapped persons if the programs are exclusively for training, job
20 placement, rehabilitation or testing.

21 (g) A person that is subject to tax under article 1 of this chapter by
22 reason of being engaged in business classified under the prime contracting
23 classification under section 42-5075, or a subcontractor working under the
24 control of a prime contractor, if the tangible personal property is any of
25 the following:

26 (i) Incorporated or fabricated by the contractor into a structure,
27 project, development or improvement in fulfillment of a contract.

28 (ii) Used in environmental response or remediation activities under
29 section 42-5075, subsection B, paragraph 6.

30 (iii) Incorporated or fabricated by the person into any lake facility
31 development in a commercial enhancement reuse district under conditions
32 prescribed for the deduction allowed by section 42-5075, subsection B,
33 paragraph 8.

34 (h) A nonprofit charitable organization that has qualified under
35 section 501(c)(3) of the internal revenue code if the property is purchased
36 from the parent or an affiliate organization that is located outside this
37 state.

38 (i) A qualifying community health center as defined in section
39 42-5001.

40 (j) A nonprofit charitable organization that has qualified under
41 section 501(c)(3) of the internal revenue code and that regularly serves
42 meals to the needy and indigent on a continuing basis at no cost.

43 (k) A person engaged in business under the transient lodging
44 classification if the property is a personal hygiene item or articles used by
45 human beings for food, drink or condiment, except alcoholic beverages, which

1 are furnished without additional charge to and intended to be consumed by the
2 transient during the transient's occupancy.

3 (1) For taxable periods beginning from and after June 30, 2001, a
4 nonprofit charitable organization that has qualified under section 501(c)(3)
5 of the internal revenue code and that provides residential apartment housing
6 for low income persons over sixty-two years of age in a facility that
7 qualifies for a federal housing subsidy, if the tangible personal property is
8 used by the organization solely to provide residential apartment housing for
9 low income persons over sixty-two years of age in a facility that qualifies
10 for a federal housing subsidy.

11 14. Commodities, as defined by title 7 United States Code section 2,
12 that are consigned for resale in a warehouse in this state in or from which
13 the commodity is deliverable on a contract for future delivery subject to the
14 rules of a commodity market regulated by the United States commodity futures
15 trading commission.

16 15. Tangible personal property sold by:

17 (a) Any nonprofit organization organized and operated exclusively for
18 charitable purposes and recognized by the United States internal revenue
19 service under section 501(c)(3) of the internal revenue code.

20 (b) A nonprofit organization that is exempt from taxation under
21 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
22 organization is associated with a major league baseball team or a national
23 touring professional golfing association and no part of the organization's
24 net earnings inures to the benefit of any private shareholder or individual.

25 (c) A nonprofit organization that is exempt from taxation under
26 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
27 internal revenue code if the organization sponsors or operates a rodeo
28 featuring primarily farm and ranch animals and no part of the organization's
29 net earnings inures to the benefit of any private shareholder or individual.

30 16. Drugs and medical oxygen, including delivery hose, mask or tent,
31 regulator and tank, on the prescription of a member of the medical, dental or
32 veterinarian profession who is licensed by law to administer such substances.

33 17. Prosthetic appliances, as defined in section 23-501, prescribed or
34 recommended by a person who is licensed, registered or otherwise
35 professionally credentialed as a physician, dentist, podiatrist,
36 chiropractor, naturopath, homeopath, nurse or optometrist.

37 18. Prescription eyeglasses and contact lenses.

38 19. Insulin, insulin syringes and glucose test strips.

39 20. Hearing aids as defined in section 36-1901.

40 21. Durable medical equipment which has a centers for medicare and
41 medicaid services common procedure code, is designated reimbursable by
42 medicare, is prescribed by a person who is licensed under title 32, chapter
43 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
44 used to serve a medical purpose, is generally not useful to a person in the
45 absence of illness or injury and is appropriate for use in the home.

1 22. Food, as provided in and subject to the conditions of article 3 of
2 this chapter and section 42-5074.

3 23. Items purchased with United States department of agriculture food
4 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
5 958) or food instruments issued under section 17 of the child nutrition act
6 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
7 section 1786).

8 24. Food and drink provided without monetary charge by a taxpayer which
9 is subject to section 42-5074 to its employees for their own consumption on
10 the premises during the employees' hours of employment.

11 25. Tangible personal property that is used or consumed in a business
12 subject to section 42-5074 for human food, drink or condiment, whether
13 simple, mixed or compounded.

14 26. Food, drink or condiment and accessory tangible personal property
15 that are acquired for use by or provided to a school district or charter
16 school if they are to be either served or prepared and served to persons for
17 consumption on the premises of a public school in a school district during
18 school hours.

19 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
20 article 1.

21 28. Textbooks, sold by a bookstore, that are required by any state
22 university or community college.

23 29. Magazines, other periodicals or other publications produced by this
24 state to encourage tourist travel.

25 30. Paper machine clothing, such as forming fabrics and dryer felts,
26 purchased by a paper manufacturer and directly used or consumed in paper
27 manufacturing.

28 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
29 purchased by a qualified environmental technology manufacturer, producer or
30 processor as defined in section 41-1514.02 and directly used or consumed in
31 the generation or provision of on-site power or energy solely for
32 environmental technology manufacturing, producing or processing or
33 environmental protection. This paragraph shall apply for fifteen full
34 consecutive calendar or fiscal years from the date the first paper
35 manufacturing machine is placed in service. In the case of an environmental
36 technology manufacturer, producer or processor who does not manufacture
37 paper, the time period shall begin with the date the first manufacturing,
38 processing or production equipment is placed in service.

39 32. Motor vehicles that are removed from inventory by a motor vehicle
40 dealer as defined in section 28-4301 and that are provided to:

41 (a) Charitable or educational institutions that are exempt from
42 taxation under section 501(c)(3) of the internal revenue code.

43 (b) Public educational institutions.

1 (c) State universities or affiliated organizations of a state
2 university if no part of the organization's net earnings inures to the
3 benefit of any private shareholder or individual.

4 33. Natural gas or liquefied petroleum gas used to propel a motor
5 vehicle.

6 34. Machinery, equipment, technology or related supplies that are only
7 useful to assist a person who is physically disabled as defined in section
8 46-191, has a developmental disability as defined in section 36-551 or has a
9 head injury as defined in section 41-3201 to be more independent and
10 functional.

11 35. Liquid, solid or gaseous chemicals used in manufacturing,
12 processing, fabricating, mining, refining, metallurgical operations, research
13 and development and, beginning on January 1, 1999, printing, if using or
14 consuming the chemicals, alone or as part of an integrated system of
15 chemicals, involves direct contact with the materials from which the product
16 is produced for the purpose of causing or permitting a chemical or physical
17 change to occur in the materials as part of the production process. This
18 paragraph does not include chemicals that are used or consumed in activities
19 such as packaging, storage or transportation but does not affect any
20 exemption for such chemicals that is otherwise provided by this section. For
21 the purposes of this paragraph, "printing" means a commercial printing
22 operation and includes job printing, engraving, embossing, copying and
23 bookbinding.

24 36. Food, drink and condiment purchased for consumption within the
25 premises of any prison, jail or other institution under the jurisdiction of
26 the state department of corrections, the department of public safety, the
27 department of juvenile corrections or a county sheriff.

28 37. A motor vehicle and any repair and replacement parts and tangible
29 personal property becoming a part of such motor vehicle sold to a motor
30 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
31 and who is engaged in the business of leasing or renting such property.

32 38. Tangible personal property which is or directly enters into and
33 becomes an ingredient or component part of cards used as prescription plan
34 identification cards.

35 39. Overhead materials or other tangible personal property that is used
36 in performing a contract between the United States government and a
37 manufacturer, modifier, assembler or repairer, including property used in
38 performing a subcontract with a government contractor who is a manufacturer,
39 modifier, assembler or repairer, to which title passes to the government
40 under the terms of the contract or subcontract. For the purposes of this
41 paragraph:

42 (a) "Overhead materials" means tangible personal property, the gross
43 proceeds of sales or gross income derived from which would otherwise be
44 included in the retail classification, and which are used or consumed in the
45 performance of a contract, the cost of which is charged to an overhead

1 expense account and allocated to various contracts based upon generally
2 accepted accounting principles and consistent with government contract
3 accounting standards.

4 (b) "Subcontract" means an agreement between a contractor and any
5 person who is not an employee of the contractor for furnishing of supplies or
6 services that, in whole or in part, are necessary to the performance of one
7 or more government contracts, or under which any portion of the contractor's
8 obligation under one or more government contracts is performed, undertaken or
9 assumed, and that includes provisions causing title to overhead materials or
10 other tangible personal property used in the performance of the subcontract
11 to pass to the government or that includes provisions incorporating such
12 title passing clauses in a government contract into the subcontract.

13 40. Through December 31, 1994, tangible personal property sold pursuant
14 to a personal property liquidation transaction, as defined in section
15 42-5061. From and after December 31, 1994, tangible personal property sold
16 pursuant to a personal property liquidation transaction, as defined in
17 section 42-5061, if the gross proceeds of the sales were included in the
18 measure of the tax imposed by article 1 of this chapter or if the personal
19 property liquidation was a casual activity or transaction.

20 41. Wireless telecommunications equipment that is held for sale or
21 transfer to a customer as an inducement to enter into or continue a contract
22 for telecommunications services that are taxable under section 42-5064.

23 42. Alternative fuel, as defined in section 1-215, purchased by a used
24 oil fuel burner who has received a permit to burn used oil or used oil fuel
25 under section 49-426 or 49-480.

26 43. Tangible personal property purchased by a commercial airline and
27 consisting of food, beverages and condiments and accessories used for serving
28 the food and beverages, if those items are to be provided without additional
29 charge to passengers for consumption in flight. For the purposes of this
30 paragraph, "commercial airline" means a person holding a federal certificate
31 of public convenience and necessity or foreign air carrier permit for air
32 transportation to transport persons, property or United States mail in
33 intrastate, interstate or foreign commerce.

34 44. Alternative fuel vehicles if the vehicle was manufactured as a
35 diesel fuel vehicle and converted to operate on alternative fuel and
36 equipment that is installed in a conventional diesel fuel motor vehicle to
37 convert the vehicle to operate on an alternative fuel, as defined in section
38 1-215.

39 45. Gas diverted from a pipeline, by a person engaged in the business
40 of:

41 (a) Operating a natural or artificial gas pipeline, and used or
42 consumed for the sole purpose of fueling compressor equipment that
43 pressurizes the pipeline.

1 (b) Converting natural gas into liquefied natural gas, and used or
2 consumed for the sole purpose of fueling compressor equipment used in the
3 conversion process.

4 46. Tangible personal property that is excluded, exempt or deductible
5 from transaction privilege tax pursuant to section 42-5063.

6 47. Tangible personal property purchased to be incorporated or
7 installed as part of environmental response or remediation activities under
8 section 42-5075, subsection B, paragraph 6.

9 48. Tangible personal property sold by a nonprofit organization that is
10 exempt from taxation under section 501(c)(6) of the internal revenue code if
11 the organization produces, organizes or promotes cultural or civic related
12 festivals or events and no part of the organization's net earnings inures to
13 the benefit of any private shareholder or individual.

14 49. Prepared food, drink or condiment donated by a restaurant as
15 classified in section 42-5074, subsection A to a nonprofit charitable
16 organization that has qualified under section 501(c)(3) of the internal
17 revenue code and that regularly serves meals to the needy and indigent on a
18 continuing basis at no cost.

19 50. APPLICATION SERVICES THAT ARE DESIGNED TO ASSESS OR TEST STUDENT
20 LEARNING OR TO PROMOTE CURRICULUM DESIGN OR ENHANCEMENT PURCHASED BY OR FOR
21 ANY SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE OR STATE UNIVERSITY.
22 FOR THE PURPOSES OF THIS PARAGRAPH:

23 (a) "APPLICATION SERVICES" MEANS SOFTWARE APPLICATIONS PROVIDED
24 REMOTELY USING HYPERTEXT TRANSFER PROTOCOL OR ANOTHER NETWORK PROTOCOL.

25 (b) "CURRICULUM DESIGN OR ENHANCEMENT" MEANS PLANNING, IMPLEMENTING OR
26 REPORTING ON COURSES OF STUDY, LESSONS, ASSIGNMENTS OR OTHER LEARNING
27 ACTIVITIES.

28 B. In addition to the exemptions allowed by subsection A of this
29 section, the following categories of tangible personal property are also
30 exempt:

31 1. Machinery, or equipment, used directly in manufacturing,
32 processing, fabricating, job printing, refining or metallurgical operations.
33 The terms "manufacturing", "processing", "fabricating", "job printing",
34 "refining" and "metallurgical" as used in this paragraph refer to and include
35 those operations commonly understood within their ordinary meaning.
36 "Metallurgical operations" includes leaching, milling, precipitating,
37 smelting and refining.

38 2. Machinery, or equipment, used directly in the process of extracting
39 ores or minerals from the earth for commercial purposes, including equipment
40 required to prepare the materials for extraction and handling, loading or
41 transporting such extracted material to the surface. "Mining" includes
42 underground, surface and open pit operations for extracting ores and
43 minerals.

1 3. Tangible personal property sold to persons engaged in business
2 classified under the telecommunications classification under section 42-5064
3 and consisting of central office switching equipment, switchboards, private
4 branch exchange equipment, microwave radio equipment and carrier equipment
5 including optical fiber, coaxial cable and other transmission media which are
6 components of carrier systems.

7 4. Machinery, equipment or transmission lines used directly in
8 producing or transmitting electrical power, but not including distribution.
9 Transformers and control equipment used at transmission substation sites
10 constitute equipment used in producing or transmitting electrical power.

11 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
12 to be used as breeding or production stock, including sales of breedings or
13 ownership shares in such animals used for breeding or production.

14 6. Pipes or valves four inches in diameter or larger used to transport
15 oil, natural gas, artificial gas, water or coal slurry, including compressor
16 units, regulators, machinery and equipment, fittings, seals and any other
17 part that is used in operating the pipes or valves.

18 7. Aircraft, navigational and communication instruments and other
19 accessories and related equipment sold to:

20 (a) A person holding a federal certificate of public convenience and
21 necessity, a supplemental air carrier certificate under federal aviation
22 regulations (14 Code of Federal Regulations part 121) or a foreign air
23 carrier permit for air transportation for use as or in conjunction with or
24 becoming a part of aircraft to be used to transport persons, property or
25 United States mail in intrastate, interstate or foreign commerce.

26 (b) Any foreign government for use by such government outside of this
27 state, or sold to persons who are not residents of this state and who will
28 not use such property in this state other than in removing such property from
29 this state.

30 8. Machinery, tools, equipment and related supplies used or consumed
31 directly in repairing, remodeling or maintaining aircraft, aircraft engines
32 or aircraft component parts by or on behalf of a certificated or licensed
33 carrier of persons or property.

34 9. Rolling stock, rails, ties and signal control equipment used
35 directly to transport persons or property.

36 10. Machinery or equipment used directly to drill for oil or gas or
37 used directly in the process of extracting oil or gas from the earth for
38 commercial purposes.

39 11. Buses or other urban mass transit vehicles which are used directly
40 to transport persons or property for hire or pursuant to a governmentally
41 adopted and controlled urban mass transportation program and which are sold
42 to bus companies holding a federal certificate of convenience and necessity
43 or operated by any city, town or other governmental entity or by any person
44 contracting with such governmental entity as part of a governmentally adopted
45 and controlled program to provide urban mass transportation.

1 12. Groundwater measuring devices required under section 45-604.

2 13. New machinery and equipment consisting of tractors, tractor-drawn
3 implements, self-powered implements, machinery and equipment necessary for
4 extracting milk, and machinery and equipment necessary for cooling milk and
5 livestock, and drip irrigation lines not already exempt under paragraph 6 of
6 this subsection and that are used for commercial production of agricultural,
7 horticultural, viticultural and floricultural crops and products in this
8 state. For the purposes of this paragraph:

9 (a) "New machinery and equipment" means machinery or equipment which
10 has never been sold at retail except pursuant to leases or rentals which do
11 not total two years or more.

12 (b) "Self-powered implements" includes machinery and equipment that
13 are electric-powered.

14 14. Machinery or equipment used in research and development. For the
15 purposes of this paragraph, "research and development" means basic and
16 applied research in the sciences and engineering, and designing, developing
17 or testing prototypes, processes or new products, including research and
18 development of computer software that is embedded in or an integral part of
19 the prototype or new product or that is required for machinery or equipment
20 otherwise exempt under this section to function effectively. Research and
21 development do not include manufacturing quality control, routine consumer
22 product testing, market research, sales promotion, sales service, research in
23 social sciences or psychology, computer software research that is not
24 included in the definition of research and development, or other
25 nontechnological activities or technical services.

26 15. Machinery and equipment that are purchased by or on behalf of the
27 owners of a soundstage complex and primarily used for motion picture,
28 multimedia or interactive video production in the complex. This paragraph
29 applies only if the initial construction of the soundstage complex begins
30 after June 30, 1996 and before January 1, 2002 and the machinery and
31 equipment are purchased before the expiration of five years after the start
32 of initial construction. For the purposes of this paragraph:

33 (a) "Motion picture, multimedia or interactive video production"
34 includes products for theatrical and television release, educational
35 presentations, electronic retailing, documentaries, music videos, industrial
36 films, CD-ROM, video game production, commercial advertising and television
37 episode production and other genres that are introduced through developing
38 technology.

39 (b) "Soundstage complex" means a facility of multiple stages including
40 production offices, construction shops and related areas, prop and costume
41 shops, storage areas, parking for production vehicles and areas that are
42 leased to businesses that complement the production needs and orientation of
43 the overall facility.

1 16. Tangible personal property that is used by either of the following
2 to receive, store, convert, produce, generate, decode, encode, control or
3 transmit telecommunications information:

4 (a) Any direct broadcast satellite television or data transmission
5 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
6 100.

7 (b) Any satellite television or data transmission facility, if both of
8 the following conditions are met:

9 (i) Over two-thirds of the transmissions, measured in megabytes,
10 transmitted by the facility during the test period were transmitted to or on
11 behalf of one or more direct broadcast satellite television or data
12 transmission services that operate pursuant to 47 Code of Federal Regulations
13 parts 25 and 100.

14 (ii) Over two-thirds of the transmissions, measured in megabytes,
15 transmitted by or on behalf of those direct broadcast television or data
16 transmission services during the test period were transmitted by the facility
17 to or on behalf of those services.

18 For the purposes of subdivision (b) of this paragraph, "test period" means
19 the three hundred sixty-five day period beginning on the later of the date on
20 which the tangible personal property is purchased or the date on which the
21 direct broadcast satellite television or data transmission service first
22 transmits information to its customers.

23 17. Clean rooms that are used for manufacturing, processing,
24 fabrication or research and development, as defined in paragraph 14 of this
25 subsection, of semiconductor products. For the purposes of this paragraph,
26 "clean room" means all property that comprises or creates an environment
27 where humidity, temperature, particulate matter and contamination are
28 precisely controlled within specified parameters, without regard to whether
29 the property is actually contained within that environment or whether any of
30 the property is affixed to or incorporated into real property. Clean room:

31 (a) Includes the integrated systems, fixtures, piping, movable
32 partitions, lighting and all property that is necessary or adapted to reduce
33 contamination or to control airflow, temperature, humidity, chemical purity
34 or other environmental conditions or manufacturing tolerances, as well as the
35 production machinery and equipment operating in conjunction with the clean
36 room environment.

37 (b) Does not include the building or other permanent, nonremovable
38 component of the building that houses the clean room environment.

39 18. Machinery and equipment that are used directly in the feeding of
40 poultry, the environmental control of housing for poultry, the movement of
41 eggs within a production and packaging facility or the sorting or cooling of
42 eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the department of commerce at the time of purchase.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this exemption, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the exemption.

C. The exemptions provided by subsection B of this section do not include:

1 1. Expendable materials. For the purposes of this paragraph,
2 expendable materials do not include any of the categories of tangible
3 personal property specified in subsection B of this section regardless of the
4 cost or useful life of that property.

5 2. Janitorial equipment and hand tools.

6 3. Office equipment, furniture and supplies.

7 4. Tangible personal property used in selling or distributing
8 activities, other than the telecommunications transmissions described in
9 subsection B, paragraph 16 of this section.

10 5. Motor vehicles required to be licensed by this state, except buses
11 or other urban mass transit vehicles specifically exempted pursuant to
12 subsection B, paragraph 11 of this section, without regard to the use of such
13 motor vehicles.

14 6. Shops, buildings, docks, depots and all other materials of whatever
15 kind or character not specifically included as exempt.

16 7. Motors and pumps used in drip irrigation systems.

17 D. The following shall be deducted in computing the purchase price of
18 electricity by a retail electric customer from a utility business:

19 1. Revenues received from sales of ancillary services, electric
20 distribution services, electric generation services, electric transmission
21 services and other services related to providing electricity to a retail
22 electric customer who is located outside this state for use outside this
23 state if the electricity is delivered to a point of sale outside this state.

24 2. Revenues received from providing electricity, including ancillary
25 services, electric distribution services, electric generation services,
26 electric transmission services and other services related to providing
27 electricity with respect to which the transaction privilege tax imposed under
28 section 42-5063 has been paid.

29 E. The tax levied by this article does not apply to:

30 1. The storage, use or consumption in Arizona of machinery, equipment,
31 materials or other tangible personal property if used directly and
32 predominantly to construct a qualified environmental technology
33 manufacturing, producing or processing facility, as described in section
34 41-1514.02. This paragraph applies for ten full consecutive calendar or
35 fiscal years after the start of initial construction.

36 2. The purchase of electricity by a qualified environmental technology
37 manufacturer, producer or processor as defined in section 41-1514.02 that is
38 used directly in environmental technology manufacturing, producing or
39 processing. This paragraph shall apply for fifteen full consecutive calendar
40 or fiscal years from the date the first paper manufacturing machine is placed
41 in service. In the case of an environmental technology manufacturer,
42 producer or processor who does not manufacture paper, the time period shall
43 begin with the date the first manufacturing, processing or production
44 equipment is placed in service.

1 F. The following shall be deducted in computing the purchase price of
2 electricity by a retail electric customer from a utility business:

3 1. Fees charged by a municipally owned utility to persons constructing
4 residential, commercial or industrial developments or connecting residential,
5 commercial or industrial developments to a municipal utility system or
6 systems if the fees are segregated and used only for capital expansion,
7 system enlargement or debt service of the utility system or systems.

8 2. Reimbursement or contribution compensation to any person or persons
9 owning a utility system for property and equipment installed to provide
10 utility access to, on or across the land of an actual utility consumer if the
11 property and equipment become the property of the utility. This deduction
12 shall not exceed the value of such property and equipment.

13 G. For the purposes of subsection B of this section:

14 1. "Aircraft" includes:

15 (a) An airplane flight simulator that is approved by the federal
16 aviation administration for use as a phase II or higher flight simulator
17 under appendix H, 14 Code of Federal Regulations part 121.

18 (b) Tangible personal property that is permanently affixed or attached
19 as a component part of an aircraft that is owned or operated by a
20 certificated or licensed carrier of persons or property.

21 2. "Other accessories and related equipment" includes aircraft
22 accessories and equipment such as ground service equipment that physically
23 contact aircraft at some point during the overall carrier operation.

24 H. For the purposes of subsection D of this section, "ancillary
25 services", "electric distribution service", "electric generation service",
26 "electric transmission service" and "other services" have the same meanings
27 prescribed in section 42-5063.

28 Sec. 5. Retroactivity; refunds; nonseverability

29 A. Sections 42-5061, 42-5064, 42-5071 and 42-5159, Arizona Revised
30 Statutes, as amended by this act applies retroactively to taxable periods
31 beginning from and after December 31, 1999.

32 B. Any claim for refund of transaction privilege tax based on the
33 retroactive application of sections 42-5061, 42-5064, 42-5071 and 42-5159,
34 Arizona Revised Statutes, as amended by this act, must be submitted to the
35 department of revenue on or before December 31, 2008, pursuant to section
36 42-1118, Arizona Revised Statutes. A failure to file a claim on or before
37 December 31, 2008 constitutes a waiver of the claim for refund under this
38 section.

39 C. The aggregate amount of refunds under this section shall not exceed
40 ten thousand dollars including interest. If the aggregate amount of the
41 claims under this section that are ultimately determined to be correct
42 exceeds ten thousand dollars, then each claim shall be proportionately
43 reduced so that the total refund amount equals ten thousand dollars. Amounts
44 due under this section shall not be refunded unless the taxpayer requesting
45 the refund provides evidence satisfactory to the department of revenue that

1 amounts of tax and interest collected from other persons by the taxpayer will
2 be returned to those persons.

3 D. This section does not extend the statute of limitations for
4 assessment or refund beyond that which is open under sections 42-1104 and
5 42-1106, Arizona Revised Statutes.

6 E. If any part of this section is finally adjudicated to be invalid,
7 the entire section is void. The provisions of this section are intended to
8 be nonseverable.

APPROVED BY THE GOVERNOR MAY 12, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2008.